

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation)
of the License to Conduct Gambling Activities of:)
Devon D. Clayton)
Wenatchee, Washington,)
Licensee.)

NO. CR 2012-00445

**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPORTUNITY
FOR AN ADJUDICATIVE
PROCEEDING**

I.

The Washington State Gambling Commission issued Devon D. Clayton the following license:

Number 68-17751, authorizing Card Room Employee activity with Buzz Inn Steakhouse in East Wenatchee.

The license expires on March 20, 2013, and was issued subject to Devon D. Clayton's compliance with state gambling laws and rules.

II.

Rick Day, Director of the Washington State Gambling Commission, charges Devon D. Clayton with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

SUMMARY:

The licensee failed to disclose a 2011 Third Degree Theft conviction, which is his third conviction for theft since 2007. As a result, the licensee has failed to show that he continues to qualify for a license.

FACTS:

- 1) On March 19, 2012, a Washington State Gambling Commission Special Agent (agent) was assigned Devon D. Clayton's file to determine whether he is still qualified for a license after his third conviction of theft. The agent became aware of the conviction during a routine annual criminal history check.
- 2) As part of the investigation, the agent reviewed Mr. Clayton's gambling license file. He first applied for and was granted a license in 2003 to work at Buzz Inn Casino. He maintained his license on and off through July 13, 2010. Mr. Clayton worked at multiple casinos, including

Keglers Choice, Z's Restaurant at Zeppoz, Wild Goose Casino, Jokers Casino, Classic Island Casino and Crazy Moose Casino.

3) On March 21, 2011, Mr. Clayton reapplied for a gambling license to work at Joker's Casino. Mr. Clayton marked the "yes" box indicating that he had criminal history. He disclosed the following criminal history:

- 2009 – DUI;
- 2009 – Driving While License Suspended;
- 2007 – Driving while License Suspended;
- 2007 – Theft Misdemeanor; and
- 2007 – Theft Misdemeanor.

Mr. Clayton's criminal history was reviewed. It was determined that since the two theft convictions happened when he was previously licensed, they did not involve gambling, and the cases were closed, the license was issued.

4) On March 16, 2012, Mr. Clayton completed his renewal application on-line. As part of this process, applicants are instructed to select one of the following three options:

- I have not had any criminal action filed against me within the last 12 months.
- I have read Washington Administrative Code (WAC) 230-06-085 and have fully complied with it in disclosing my criminal history.
- I have read WAC 230-06-085 and need to report my criminal history.

Mr. Clayton selected the first option, "I have not had any criminal action filed against me within the last 12 months."

5) As part of the agent's investigation, a criminal history background check was conducted. The agent noted that Mr. Clayton was charged with Theft 3rd Degree on 07/03/2011, and this was his third theft conviction. The previous convictions of theft from the 2007 cases are both closed. Based on this information, the agent requested certified court documents and copies of the police reports for the three cases. The following is a summary of the documents:

- On July 3, 2011, a Wenatchee Police Department Report was opened when an Officer responded to JC Penney's in reference to a loss prevention officer (loss prevention) having Mr. Clayton in custody for theft. The total loss to the store was \$583.70, including the merchandise vouchers that had been issued to him the previous day when he returned the other stolen items. Mr. Clayton was arrested and issued a citation. On August 11, 2011, an Abstract of Judgment was filed in Chelan County District Court showing that Mr. Clayton was found guilty of 3rd Degree Theft. Additionally, a Statement of Defendant of Plea of Guilty was filed in Chelan County District Court, and a Judgment and Sentencing was filed in Chelan District Court showing Mr. Clayton was sentenced to 30 days in jail, with the option of serving it on Electric Home Monitoring and two years probation.

- On November 28, 2007, an Othello City Police Department Report was opened after Officers were notified that Wal-Mart was holding a shoplifter identified as Mr. Clayton. Mr. Clayton left the building without paying for a pair of socks and a pair of shoes. The total value of the socks and shoes was \$22.38. Mr. Clayton was arrested for theft. On December 12, 2007, Mr. Clayton pled guilty and was sentenced to six months of community service. On March 27, 2008, Mr. Clayton completed community service. On September 11, 2008, the case was paid in full, and the case was closed.
- On August 20, 2007, a Criminal Complaint of Theft and an Affidavit of Probable Cause were filed in Benton County District Court, charging Mr. Clayton with theft valued at \$36.11 from Wal-Mart. The Affidavit of Probable Cause states that loss prevention observed Mr. Clayton enter the cracker aisle at Wal-Mart and conceal some packages of T-shirts, boxers, pajama pants and some cleaning merchandise in a box of cereal and a box of Doritos. Mr. Clayton was then seen in the self-checkout lane where he purchased the box of cereal and box of Doritos. As he attempted to exit the store, loss prevention apprehended him. The unpaid merchandise was recovered, and Mr. Clayton was trespassed from the store then released.

6) The licensee's criminal history and his failure to disclose it, in violation of WAC 230-06-085 and RCW 9.46.170, establish that he poses a threat to the effective regulation of gaming. The licensee has also failed to establish by clear and convincing evidence the necessary qualifications for licensure under RCW 9.46.153(1).

7) Therefore, under RCW 9.46.075(1), (4), (7), (8) and (10), and WAC 230-03-085(1), (5), (7) and (8), grounds exist to revoke Devon D. Clayton's license.

VIOLATIONS:

RCW 9.46.075 Denying, suspending, or revoking an application, license or permit

The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the Commission.

(8) Fails to prove, by clear and convincing evidence, that she is qualified in accordance with the provisions of this chapter.

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075;

(5) Is serving a period of probation or community supervision imposed as a sentence for any juvenile, misdemeanor, or felony criminal offense, whether or not the offense is covered under RCW 9.46.075(4);

(7) Fails to provide us with any information required under commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us;

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

RCW 9.46.170 False or misleading entries or statements, refusal to produce records.

Whoever, in any application for a license or in any book or record required to be maintained by the commission or in any report required to be submitted to the commission, shall make any false or misleading statement, or make any false or misleading entry or willfully fail to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

WAC 230-06-085 Report criminal actions filed.

(1) Licensees must report to us in writing within thirty days all criminal actions filed against the licensee, any manager of the licensed gambling activity, the business organization, or any person holding a substantial interest in the business organization.

(2) We must receive a copy of the final written decision or settlement within thirty days after the case is resolved.

RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations.

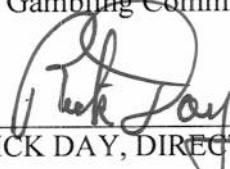
In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

Based on RCW 34.05.440, failure to return a request for hearing will result in the entry of a default order REVOKING your license.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

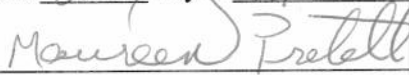


RICK DAY, DIRECTOR

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

SUBSCRIBED AND SWORN TO before me
this 20 day of April, 2012.

Dated at Olympia, Washington this 20 day of April, 2012



NOTARY PUBLIC in and for the State of

Communications and Legal Department
Washington State Gambling Commission

Washington residing at Thurston County
My commission expires on December 2, 2015

